UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/C.12/1994/SR.33
28 November 1994

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Eleventh session

SUMMARY RECORD OF THE 33rd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 23 November 1994, at 10 a.m.

Chairperson: Mr. ALSTON

CONTENTS

Consideration of reports (continued)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant

United Kingdom

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GE.94-70185 (E)

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS (agenda item 4) (continued)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT

United Kingdom (E/1990/7/Add.16; E/1989/5/Add.9; E/1986/4/Adds.27 and 28; E/C.12/1994/WP.13)

1. At the invitation of the Chairman, Mr. Steel, Mr. Astley, Mr. Phipps, Mr. Fung, Mr. Tescod, Mr. Cheng, Mr. Wong and Ms. Doherty (United Kingdom) took places at the Committee table.

2. Mr. STEEL (United Kingdom), introducing his country's second periodic report concerning rights covered by articles 10 to 12 dealing with the Dependent Territories (E/1986/4/Add.27 and E/1986/4/Add.28), its second periodic report concerning rights covered by articles 13 to 15 (E/1990/7/Add.16), and additional information concerning the second periodic report on the rights referred to in articles 10 to 12 (E/1989/5/Add.9), apologized for the delay in submitting the reports, which was due to the fact that, because of their small size and limited administrative capacity, the Dependent Territories were encountering great difficulties in preparing reports for United Nations treaty monitoring bodies. The United Kingdom Government was doing its best to overcome the problem. However, in the Dependent Territories for which the United Kingdom Government was responsible, there were 16 different jurisdictions with different judicial and administrative systems and laws. Moreover, different government departments were responsible for different aspects of the material to be covered. Answers had been supplied in writing to the Committee's list of 38 issues to be taken up in connection with the consideration of the second periodic reports on articles 10 to 12 and 13 to 15 (E/C.12/1994/WP.13). Since many of the issues raised concerning the metropolitan territory of the United Kingdom related to education, a senior official from the Department of Education had been included in the delegation. Among the Dependent Territories Hong Kong was a special case, and the Committee attached particular importance to the implementation of the Covenant there. The Government of Hong Kong had therefore sent a number of senior officials to respond to any questions. If the various members of the delegation were unable to reply to any question immediately, answers would be sent in writing as soon as possible.

3. His Government had no reason to be ashamed of the reports which he was introducing, since it had always done its best to ensure that the provisions of the Covenant were respected as fully as possible both in the United Kingdom itself and in its Dependent Territories. There were, however, shortcomings, and his Government regarded the reports which it submitted to the Committee not merely as a means of recording its successes but also as an opportunity to identify the areas where improvements were needed and to explain what it intended to do about them. Any criticism would be examined carefully, and the Committee would be kept fully informed of the measures taken.

4. Mr. PHIPPS (United Kingdom) said that it might be helpful if he described the organization of the education system in the United Kingdom, since many of his delegation's answers to the Committee's questions needed to be understood in the context of that system.

5. The education system was not uniform throughout the United Kingdom. There were some differences between England, Wales, Scotland and Northern Ireland. However, the main features applied everywhere. Children must attend school full-time or receive a comparable education at home or elsewhere between the ages of 5 and 16. Parents might choose to send their children to some form of nursery education before that age. After age 16 pupils might stay on at school until age 19 or go to a further education college to pursue an academic or vocational course. Thereafter they might compete for a place at a university or other higher education institution for academic or professional study or continue vocational study at a college. There were opportunities to return to university or college for continued education throughout adult life. The Open University played an important part by providing a wide range of courses through distance learning.

6. The central Government did not manage individual schools, colleges or universities, nor did it appoint teaching or other staff or choose which students to admit. The Government did not dictate exactly what should be taught or how it should be taught.

7. Those were the main common features of the education system throughout the United Kingdom. He would now like to describe some features of the system in England that were particularly relevant to the questions the Committee had raised with regard to the United Kingdom's second periodic report. Where necessary, he would mention any significant differences that applied in Wales, Scotland or Northern Ireland.

8. First, within an overall legal and administrative framework set by the central Government of the United Kingdom, decisions about what courses to offer, who should be admitted to particular institutions to study particular courses, how much to spend on them and with what priorities were all matters largely for local decision-makers. The central Government's policy was to create a system which offered different types of education, scope for parents and students to choose the particular education they thought appropriate for them, and publicly available information on educational opportunities and performance at schools and colleges so that they could exercise their choice on a rational basis. As part of that policy of diversity and choice, there was a flourishing sector of independent, privately funded and fee-charging schools and colleges alongside the publicly funded system maintained by central and local Government.

9. Second, within the publicly funded sector decisions were devolved wherever possible down to the lowest local level. Often that meant the level of the individual school or college rather than that of local or regional Government. The local government institutions for a region, county, city or district were increasingly seen as bodies which enabled others to make provision at the local level rather than as directly providing all the services themselves. That approach to the enabling function of local government underlay the current process of reorganizing local government

structures. Together with efforts to improve the efficiency of the public sector, the approach had also prompted measures to encourage the contracting-out of services to the private sector on a competitive tendering basis. Within that framework England and Wales now had a system of local management of schools, with increased powers given to their governing bodies and budgets delegated to them by the local education authorities for their area. There were broadly comparable provisions in Scotland and Northern Ireland. The Government had also introduced arrangements for schools, if they chose, to opt out of local authority control and become entirely self-governing grant-maintained schools, with funding from a central government agency and increased freedom.

10. Third, the central Government still had an important role in determining the overall amount of funding available for the education service nationally and how it should be distributed to the local level while leaving the local authorities and schools and colleges free to decide upon their priorities within the limits of the sums available. The central Government also set certain standards, stipulated minimum requirements that all institutions must meet, and offered guidance on how institutions might carry out their responsibilities, in order to promote the highest possible educational achievements, to safeguard children's welfare and to ensure accountability to parents and the public through information on school and college performance. The aim, however, was to keep bureaucracy and central Government intervention to the minimum necessary for those purposes. The National Curriculum in England and Wales, and the comparable arrangements in Scotland and Northern Ireland were examples of that. The National Curriculum in England and Wales statutorily prescribed which core and foundation subjects must be taught, the programmes of study to be followed at each stage, and the arrangements for assessing pupils' achievements. However, it did not prescribe teaching methods or textbooks and its statutory requirements had recently been slimmed down to give schools more freedom to decide how to tackle the core and foundation subjects and what additional subjects and options to offer, especially for the 14 to 16 age range, once the basic statutory requirements had been satisfied. School inspection arrangements had been improved in order to monitor school performance more effectively.

11. He then briefly summarized the comments made by the United Kingdom Government in its written response to the points concerning the education system raised by the Committee in its list of issues (E/C.12/1994/WP.13). As far as the arrangements for children to learn their mother tongues were concerned, the central Government had provided for the inclusion of a range of minority languages in the National Curriculum. Those and other languages could also be taught in schools at the latters' discretion outside the National Curriculum. Moreover, minority groups themselves could organize teaching in those languages outside the formal school system. The central Government also provided substantial additional resources for specialist teachers of English as a second language to enable minority group children to master the language and to gain access to the whole curriculum.

12. With regard to collective bargaining arrangements for settling teachers' pay and conditions, the Government had already given an assurance that the new teachers' pay review machinery would not be applied in practice so as to hamper the freedom of collective bargaining. In fact, the great majority of

the teachers' unions in England and Wales had endorsed the new pay arrangements, which the Government believed would meet the concerns raised by the ILO Committee of Experts.

13. His Government accepted that the low level of numeracy among United Kingdom workers constituted a problem, although it believed that it was not significantly worse than that found in many other industrialized countries. Steps were already being taken to remedy the situation, both through greater emphasis on mathematics in the National Curriculum and through the work of the government-funded Adult Literacy and Basic Skills Unit.

14. The United Kingdom Government also recognized that there had been a problem concerning the number of children permanently excluded from school. It had taken several measures to cope with it - for example, by abolishing the category of indefinitely excluded pupils and by giving guidance to schools on the range of lesser sanctions which could be used to deal with problems of discipline and behaviour.

15. The variety of measures taken to combat the extent to which racial discrimination diminished the educational opportunities of students from minority groups included legislation to outlaw racial discrimination in educational institutions and steps to recruit teachers from the minority communities and to prepare all teachers to cope with the range of cultural experience in all subjects. Schools had also been given guidance on ways of dealing with racial attacks and harassment.

16. The Government had also taken action, through legislation and the provision of guidance, to strengthen the provisions made in mainstream schools or elsewhere for children who had been in the care of local authorities.

17. Most of the disparities in per capita spending within different schools resulted from local decisions on needs and priorities. In connection with the prompt assessment of children with special educational needs, the Government had recently introduced new legislation and a detailed code of practice to improve the provision made for children with special needs, whether they were in mainstream or in special schools, and to speed up the assessment of their needs.

18. Mr. STEEL (United Kingdom) said that he would attempt to amplify his country's written replies to the issues raised by the Committee. As to the request in issue No. 1 to cite specific laws that had been changed to enable the United Kingdom to comply with its obligations under the Covenant, the Government had not found it possible to legislate specifically to that end, as the greater part of the Covenant's provisions did not lend themselves to translation into legislation, but were statements of principle and objectives and descriptions of processes and attitudes. None the less, his Government had provided in its written response a sample list of recently enacted legislation which showed that policy and practice were generally in line with the intentions of the Covenant. Regarding measures that had been taken to promote self-rule in the Dependent Territories and to enhance their awareness of and ability to exercise economic, social and cultural rights as enshrined in the Covenant (issue No. 2), all the Dependent Territories had democratically and popularly elected legislative bodies to which their

executive branches were broadly accountable; they were all in effect self-governing in internal matters. The United Kingdom Government remained in charge of external affairs and defence, and in some cases the Governor of the territory retained responsibility for certain other internal matters such as internal security, the civil service and, in cases where it was a problem, such as in some of the Caribbean territories, for international financial services. Those arrangements had the force of law in the Constitution of each territory, which was amended periodically by agreement with the bodies of political opinion. One example was the current Constitution of the Cayman Islands, the most recent amendment to which had been determined by the outcome of an election. As to proceeding beyond self-government to independence, his Government would not stand in the way of any territory wishing to become independent to do so, nor was it right to press any territory into independence against its wishes. There were, however, some territories for which independence would never be the practical option, including Pitcairn and St. Helena, because of their size, position or financial circumstances. Special problems were posed by the Falkland Islands and Gibraltar, where international political reasons made independence not a viable option. That was not because the United Kingdom denied a demand for independence but because other circumstances made such a demand unrealistic.

19. Mr. SIMMA asked whether the government's response to the request for examples should be of specific laws enacted to comply with the Covenant read optimistically, in the sense that the Covenant had had an impact on updating laws and administrative practices, or less optimistically to mean that the Covenant was merely an umbrella of which no one was aware. He asked whether there were any tangible instances in which the Covenant had actually been taken into account in the legislative process. Regarding the measures to promote self-rule he asked whether the United Kingdom considered that in 1994, 290 years after the signing of the Treaty of Utrecht, it felt that its answer with regard to Gibraltar was still sufficient. That answer read as follows: "As regards Gibraltar, any changes to its status would have to take account of the provisions of the Treaty of Utrecht which established British title to Gibraltar. The same Treaty also gave Spain the right of 'first refusal' if Gibraltar ceased to be British. Independence is therefore not an option, unless Spain is prepared to agree." The International Court of Justice had handed down an opinion regarding Namibia in 1971 as well as in other cases in which it stated that treaty provisions must be read in light of present circumstances; that principle made 300-year-old treaty provisions inoperative. Self-determination was a principle of jus cogens, and therefore, unless Spain agreed that self-determination was still not an option for Gibraltar, he wondered if the United Kingdom response was still applicable.

20. Mr. STEEL (United Kingdom) said that the optimistic interpretation with regard to his Government's response to the request for legislative examples was the correct one. There were cases where in the formulation of policy, the Government was aware of and consciously guided by the provisions of the Covenant and other human rights instruments. He doubted if there were any relevant government departments which were not aware of the Covenant, and in any case the present process of reporting to the Committee was a very effective way of ensuring their awareness. He could not, however, say that particular measures had been taken to comply with the Covenant. Regarding Gibraltar, the provision of the treaty giving Spain the right of first refusal

was still binding and operative and therefore constituted an inhibition on Gibraltar's proceeding to independence, which could only be removed with the agreement of the Spanish Government. For all practical purposes in internal matters, however, Gibraltar had self-rule.

21. Mr. WIMER ZAMBRANO said that while the Committee was well aware of the complications posed by the Treaty of Utrecht, the United Kingdom response with regard to Gibraltar did not really inform the Committee as to what its policy was with regard to self-determination. It was a much more complicated question than simply an issue between the two Governments in question. The Malvinas, although a similar issue, in fact was totally different.

22. Mr. STEEL (United Kingdom) said his Government had no desire to be an obstacle to the wishes of the people of Gibraltar if indeed it were their wishes to proceed to independence. However, Gibraltar could not be looked at in isolation; it had a geographical and historical problem, part of which was, in a word, Spain. The Spanish claim to sovereignty over Gibraltar was a factor. His Government was constrained by a valid international obligation not to facilitate independence unless Spain concurred. Since it did not concur, Gibraltar must remain a British dependent territory for which the United Kingdom was internationally responsible, meaning that certain powers had to be reserved to the United Kingdom. Short of that, the Government had facilitated the fullest possible enjoyment by the people of Gibraltar of internal self-government. External factors prevented the process of self-determination from reaching its ultimate conclusion, namely, independence. Self-determination and independence were nevertheless not necessarily synonymous. As to the Falkland Islands, there was absolutely no desire among the population to proceed to independence. That population consisted of 2,000 homogeneous people who had a very large measure of internal self-government and did not wish for independence. The United Kingdom Government was not standing in the way of a demand for independence because there was no such demand. Issue No. 3 concerned the extent to which account had been taken in the preparation of the various parts of the report of the concerns and views expressed by the public and non-governmental organizations (NGOs), including in the relevant territories. There was no set practice either in the United Kingdom or in most of the Dependent Territories for including members of the public and NGOs in the preparation of the report. In some Dependent Territories, there was very close cooperation between the relevant government departments and members of the public and NGO bodies. There were also Dependent Territories with very minuscule populations where there was no great distance between government machinery and NGOs. Consequently, assessments by government departments necessarily reflected an input from public opinion. As to question issue No. 4 concerning the steps being taken by the Government to ensure that the contents of the reports were being widely disseminated and that the reporting procedure was fulfilling the function of focusing attention and debate on the implementation of the rights guaranteed by the Covenant, the text of each report was made available in the library of the House of Commons, thereby ensuring its availability to the public and the press. In some Dependent Territories those texts were available, while in others they were not. His Government recognized that they could be subject to criticism for that and would give active consideration to improving the practice.

23. Mr. TEXIER asked to what extent NGOs had participated in the preparation of the report, noting that certain organizations from Hong Kong had hoped to comment on it before it was sent on to the Committee but that the request had been refused. None the less, a contrary position had been adopted by the United Kingdom with regard to its report to the Committee on the Elimination of Discrimination against Women. He asked why account was not taken of the comments made by NGOs, given that there was a large group of NGOs and that the NGO participation contributed to the national debate on the issues before the Committee.

24. Mr. SIMMA asked whether the United Kingdom Government had invited NGOs active in the Dependent Territories to make their views known during the preparation of the report, why its approach appeared to differ from the one taken for the preparation of the most recent report for the Committee on the Elimination of Discrimination against Women and whether NGOs would be allowed to contribute to the preparation of the United Kingdom's first global report.

25. Mrs. BONOAN-DANDAN agreed with the two previous speakers; the same applied for Northern Ireland, where there had been no national debate on the preparation of the report and where the opinions of the disadvantaged members of society had not been heard. She suspected that there was little awareness in the United Kingdom of the International Covenant on Economic, Social and Cultural Rights, because no effort had been made to disseminate its message, and she asked how the United Kingdom planned to improve the situation in the future.

26. Mr. GRISSA said that the population of Hong Kong should likewise be consulted in preparing the report, because their future rights were at stake.

27. Mr. STEEL (United Kingdom) said that when they prepared their report, States parties must give their own position: it was not practicable to reflect their differing views of NGOs. That did not mean that the opinions of NGOs and others should not be taken into account, and the United Kingdom sought to do so in the Dependent Territories. In fact, direct input from a variety of public opinion sources, including NGOs, was a daily fact of life. But it was difficult to see how the report could be made into a joint enterprise.

28. He could not say whether a different approach had been used in preparing the report for the Committee and the report to the Committee on the Elimination of the Discrimination against Women.

29. Mr. SIMMA apologized if he was overstating the remarks of the representative of the United Kingdom, but the latter had seemed to be suggesting that his had been the only sensible way to deal with NGOs, which, as he had appeared to imply, were nothing but gadflies, critics and left-wingers. Accordingly, he drew the attention of the representative of the United Kingdom to the general comments adopted by the Committee in 1989, in which it had stated, that one of the objectives of the reporting process was to facilitate public scrutiny of government policies, it had welcomed the fact that a number of States parties had encouraged inputs by non-governmental groups into the preparation of their reports under the Covenant and it had

noted that other States had ensured the widespread dissemination of their reports with a view to enabling comments to be made by the public at large (HRI/GEN/1/Rev.1, para. 5).

30. Mr. STEEL (United Kingdom) said that he did not share the somewhat cynical interpretation of the previous speaker as to the value of dialogue with NGOs in the preparation of reports. With regard to the Covenant's dissemination, he said that the United Kingdom would give thought to how it could be improved in the future.

31. As to the assertion made in issue No. 5 in respect of article 2.2 of the Covenant dealing with non-discrimination that women in the United Kingdom earned 25 per cent less than their male counterparts in comparable positions, he said that that was incorrect: in fact it was unlawful to pay a women less than a man for the same work or for work of equal value. Admittedly, women were employed disproportionately in lower paid occupations.

32. Mrs. VYSOKAJOVA asked whether teachers received special training on how to respond to the needs of disabled children in mainstream schools and whether a support infrastructure was available, whether disabled persons had the same opportunity to attend secondary school and university as others, whether school buildings were accessible for wheelchairs and whether books were available for blind children.

33. Mr. WIMER ZAMBRANO asked what the United Kingdom's policy was with regard to the teaching of languages other than English.

34. Mr. CEAUSU, referring to issue No. 13, said that a growing tendency had been noted to solicit voluntary contributions from parents. That tended to place children from poor families at a disadvantage and create disparities in expenditure from one neighbourhood to the next. He asked the representative of the United Kingdom to comment on that matter.

35. Mr. PHIPPS (United Kingdom) replying first to Mrs. Vysokajova, said that it was the United Kingdom's policy to encourage disabled pupils to attend mainstream schools, where practicable. Teacher-training focused on heightening an awareness for, and devising ways of meeting, the needs of such children in mainstream schools. Where that was not possible, provision had been made for assisting disabled children in special schools, and a substantial programme of funding had been introduced to that end. In September 1994, legislation had come into force to strengthen arrangements for disabled children, and the United Kingdom would carefully monitor the impact of those new provisions.

36. As part of that policy, his Government also encouraged the disabled to pursue college-level education. Steps had recently been taken to improve access to college education for those with special learning needs.

37. With regard to wheelchair accessibility, he pointed out that there were more than 20,000 schools and hundreds of colleges and universities, many of them rather old, in England and Wales alone. New buildings must give priority

to providing access for disabled persons, but resources were limited for modernizing older structures. In view of the size of the educational system and the age of many buildings, such alterations would take some time.

38. In reply to Mr. Wimer Zambrano's question on the teaching of minority languages, he said that there was provision for languages like Welsh but that the Government's main priority was to provide an understanding of English as the common language of the United Kingdom and to ensure that children from homes where English was not spoken should be able to participate fully in national life.

39. The Government, however, recognized that it was important for children to have a knowledge of the language and culture of their communities. The National Curriculum therefore included provision for minority languages in the choice available to pupils throughout the compulsory period of schooling. Provision naturally depended upon the availability of teachers and on the demand. Some 200 minority languages were spoken in the United Kingdom and it would clearly be impractical to include them all in the school curriculum. However, minority communities were encouraged to make their own arrangements outside the school system for pupils and older people to learn about the language and culture of their community.

40. In reply to Mr. Ceausu's question about the growing trend towards asking for voluntary contributions to help meet the cost of schooling, he said that the percentage of voluntary contributions in the total spending on schools was very small, although he did not have any figures available. He was not aware of any evidence that the trend was in fact growing. The legislation applicable to schools prevented them from charging for essentials and there were restrictions on the charges that could be made for extra-curricular activities and on the extent to which contributions might be invited if an activity could not take place without them. The principle was that education for pupils should be free during school time. Wealthier parents might sometimes wish to improve the facilities available, but there were limits on voluntary contributions for such purposes.

41. Mr. SIMMA drew attention to a report entitled Social Justice: Strategies for National Renewal published by the Commission on Social Justice, which he had just received and which had not yet been made available to the members of the Committee. That report stated that the United Kingdom educational system offered world-class standards for an elite of some 20 per cent of children, but continued to fail the rest. Along with Portugal, the United Kingdom had the lowest levels of provision for the under-fives in the European Union. Only one in three children had access to publicly-funded nursery places, as against 95 per cent of French children. At primary school, children were taught in classes larger than in almost any other modern industrial country, whereas in private schools, attended by only 7 per cent of children in the United Kingdom, the pupil/teacher ratio was 1 to 11. Moreover, Japanese and German students were twice as likely to achieve the equivalent of two A-levels as an English student, and there were shocking regional differences. One in six young men in Northern Ireland and Wales left school with no graded examination results, and in the south-west the figure was 1 in 20. In 1991, one in five 21-year-olds had trouble with basic mathematics and one in seven with basic reading and writing. It was estimated that poor basic skills cost

industry £5 million a year in cancelled orders through clerical errors. Only 7 out of 10 pupils achieved better than grade C in the three core subjects of English, mathematics and science, whereas 6 out of 10 French and German pupils achieved the equivalent grades. The report set out a list of priorities for improving matters, including the introduction of universal pre-school education for three- and four-year-olds, coupled with new investment in child care, and of literacy and numeracy targets for seven-year-olds. It also suggested that basic skills programmes should be targeted at the long-term unemployed. He asked what the view of the United Kingdom was on those issues and what was the overall state of planning on the educational shortcomings that he had outlined.

42. Mr. MARCHAN ROMERO asked, in connection with the effectiveness of religious tolerance in religious matters, whether the education budget contained any provision for schools of specific religious persuasions. The Committee had learned that in 1992 a United Kingdom court had denied financial support to a school with a majority Muslim governing body. Were any religious groups excluded from the State education budget?

43. Mr. PHIPPS (United Kingdom) said that he would like an opportunity to study the report of the Commission on Social Justice before responding to Mr. Simma's question. It might well be that the reply would be sent in writing later on.

44. However, with regard to the priorities referred to in that report and highlighted by Mr. Simma, he said that there was greater provision for three and four-year-olds at nursery school than might appear from the figures usually quoted, since voluntary or private sector activities were not always included in the statistics. There was, for instance, a thriving playgroup movement providing education and care for substantial numbers of children in the relevant age range. Moreover, the figures given covered only full-time attendance, whereas part-time nursery schooling, which was more appropriate for younger children, was widespread. The picture was therefore more optimistic than the statistics suggested.

45. Nevertheless, the Government recognized the need to do more and the Prime Minister had set up a task force to identify ways of meeting the commitment to expand access to pre-school education and child care for three- and four-year-olds.

46. On Mr. Simma's remarks concerning basic literacy and numeracy skills, he said that the new National Curriculum included programmes of study designed to improve literacy and numeracy from the start and it set attainment targets for the end of each stage of schooling. In the recent revision of the National Curriculum those targets had been made more demanding.

47. The United Kingdom also had a programme for developing adult literacy and numeracy. The Adult Literacy and Basic Skills Unit, a Government-funded body, provided information and advice to those giving courses. The Government was very keen to tackle what was undeniably a problem in that area.

48. In reply to Mr. Marchan Romero's question about support for schools of particular religious faiths, he said that he could not at that stage give figures for financial provision for such schools. There had long been provision for churches and other religious groups to set up "voluntarily aided" or "grant maintained" schools, for which financial assistance was available from the Government both for capital and running costs.

49. There was no legislation barring any religious body from proposing to set up a new school. However, all schools had to meet certain requirements, including those of the National Curriculum, if they were to be publicly funded. In setting up a new school, the promoters had to justify the demand for it, and large numbers of places must not be left empty in existing schools as a result. Certain constraints therefore existed, and he believed that that had been the point at issue in the case of the Muslim school referred to by Mr. Marchan Romero. He would, however, need to refer to that particular case if further information was required and in any case to provide figures, if they were available, showing the support available for religious schools of different kinds.

50. Mrs. JIMENEZ BUTRAGUEÑO said that in view of the declining birth rate in the United Kingdom the pupil/teacher ratio might have been expected to improve. Had there been such an improvement in the United Kingdom, and if so, did it apply both to private and publicly funded schools?

51. Mr. PHIPPS (United Kingdom) said that there had indeed been a steady improvement in the pupils/teacher ratio in the publicly-funded sector of education in the United Kingdom, partly because of a reduction in the birthrate. However, the number of pupils had now stabilized and had started to rise again. Moreover the percentage of pupils staying on at school after the age of 16 had greatly increased in recent years. It was unlikely that the pupil/teacher ratio would continue to rise in the publicly-funded sector, one reason being the limited stock of teachers and the relatively modest output from teacher-training institutions; and also because in a period of financial pressures the Government did not consider improving pupil/teacher ratios in publicly-funded schools to be a major priority. It believed that the quality of teaching and learning did not depend solely on the number of pupils in a class. Generally speaking, class sizes in the United Kingdom were relatively small and on the whole manageable for teachers.

52. It was the case that in private schools the pupil/teacher ratio was generally more favourable. The Government did not regulate pupil/teacher ratios in private schools.

53. Mr. GRISSA said that in many European countries schools had closed because of a lack of pupils and children were sent to a few large schools, thus involving the need for transport. He inquired who paid for school transport in such cases in the United Kingdom.

54. Mr. PHIPPS (United Kingdom) said that there were quite elaborate procedures in his country for closing schools, involving local consultation and decisions by the local government authority or in some cases where there was opposition, by the central Government.

55. The Government's general policy had been to encourage local education authorities and schools to eliminate spare places. Until quite recently the reduction in pupil numbers meant that there was a growing problem of surplus places costing money to maintain and thus representing a waste of public resources. Clearly some pupils would be travelling further from their homes to the alternative schools available. There was ample opportunity for opposition to be voiced if there were good educational or other reasons not to close a school, although he had no supporting figures, but in fact relatively few schools had been closed. There was legislation requiring that public funds should meet the cost of transport to an alternative school if the distance was beyond a certain limit, which differed for primary age and secondary age children. If the closure of a school resulted in a child having to travel a distance beyond the limits specified in the legislation, the cost was automatically met from public funds. In addition, local authorities had discretion to subsidize the cost of transport over shorter distances where there was no legal requirement to pay. Education authorities often paid the cost of transport for a transitional period even without a legal requirement to do so.

56. Mr. TEXIER inquired whether there were specific programmes to help illiterate persons who had gone through the normal education process.

57. Mr. PHIPPS (United Kingdom) said that there was indeed a problem of adult illiteracy and innumeracy. He had no figures for illiteracy among adults, and there had been some argument about the exact figures since there were different ways of measuring literacy and illiteracy. However the Government recognized the problem and was seeking to tackle it by improving the curriculum in schools so that fewer children emerged from the school process having difficulties with literacy and numeracy. It was hoped that in time the National Curriculum would help to deal with that problem. A number of measures were available for adults. The Adult Literacy and Basic Skills Unit helped to promote the development of courses and approaches for tackling illiteracy and innumeracy among adults and to encourage further education and other institutions to provide a variety of courses in response to the need identified. Moreover, many employers offered remedial literacy and numeracy courses to their employees, an approach encouraged by the Government. One of the difficulties was the reluctance of adults to admit to problems of illiteracy and innumeracy. Part of the solution was, therefore, to make it easier for people to recognize that they needed help and to know where to go for it. The Government had been trying to encourage greater understanding and tolerance to eliminate the stigma of illiteracy, but the problem, shared by a number of industrialized countries, subsisted. The United Kingdom was very anxious to learn from the experience of other countries that might have found ways of dealing with the matter.

58. The CHAIRPERSON said that the Committee had now concluded its questions on article 13 and requested the United Kingdom representative to take up the issues raised on article 15.

59. Mr. STEEL (United Kingdom), replying to issue No. 15 in the list of issues (EC.12/1994/WP.13), which asked how the Government had sought to ensure that the implementation of the Public Order Act 1986 did not in any way violate its human rights obligations particularly in relation to the Covenant,

said that Part 3 of the Public Order Act, relating to incitement to racial hatred, was not intended to curtail legitimate freedom of expression. Its aim was to deal with words, behaviour or the distribution of literature which had implications for public order. Each of the offences created by the legislation was committed only if the conduct in question was threatening or abusive or intended or likely to stir up racial hatred. As the written report of the United Kingdom indicated, a number of safeguards were built into the Act to ensure that prosecutions for such offences were not embarked upon lightly.

60. The United Kingdom Government considered that the Act was perfectly consistent with, for instance, article 19 of the International Covenant on Civil and Political Rights which guaranteed the right of freedom of expression, subject to certain restrictions. It was ironical that the question was being put to the United Kingdom Government in the present context because in other contexts the pressure on the Government had been to make the provisions of the Public Order Act dealing with racial hatred more severe. He considered that in legislation and practice the right balance had been achieved and that legitimate freedom of expression was respected.

The meeting rose at 1 p.m.

UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/C.12/1994/SR.34
30 November 1994

ENGLISH
Original : FRENCH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Eleventh session

SUMMARY RECORD OF THE 34th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday 23 November 1994, at 3 p.m.

Chairman: Mr. ALSTON
later: Mr. ALVAREZ-VITA

CONTENTS

Consideration of reports (continued)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant

United Kingdom of Great Britain and Northern Ireland (continued)

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GE.94-70204 (95-95238/EXT)

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS (agenda item 4) (continued)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT

United Kingdom of Great Britain and Northern Ireland (continued) (E/C.12/1990/7/Add.16)

1. The CHAIRMAN invited the United Kingdom delegation to reply to the questions posed in paragraphs 16 to 19 of the list of issues (E/C.12/1994/WP.13).

2. Mr. STEEL (United Kingdom), referring to paragraph 16 concerning the protection of minorities, said that there were no restrictions in the United Kingdom based on race, colour or national or ethnic origin which would have the effect of limiting the right of all people to participate fully in cultural life. The Race Relations Act 1976 prohibited all forms of racial discrimination, including discrimination in cultural activities. The Broadcasting Act 1990 was intended to provide opportunities for communities of all kinds to have access to broadcasting stations, offering programme material designed to meet their needs and interests. The licensing body in the independent radio sector - the Radio Authority - ensured that the new stations which it licensed catered to the tastes and interests of the population. There were now eight radio stations across the United Kingdom broadcasting programmes for ethnic minority communities 24 hours a day. In the commercial sector the Independent Television Commission could also issue licences to channels offering programmes to meet the particular needs of ethnic minorities. Several channels were broadcasting programmes for various communities: Turkish, Greek, Asian and Arabic, among others.

3. With regard to paragraph 17, the implementation of the Race Relations Act 1976 and the Public Order Act 1986 had not presented any difficulties in relation to the implementation of article 15 of the Covenant. The Public Order Act restricted freedom of expression only so far as public order required.

4. Turning to paragraph 18, he said that the public funds allocated by the State to dependent Territories for cultural activities and scientific research varied according to the size of the Territory in question, its resources and the degree of organization of its society. He invited the members of the Committee to refer to the written reply of the United Kingdom Government, which gave all necessary information on the topic.

5. He would welcome some clarification of the meaning of the question contained in paragraph 19 concerning the impact of the austerity measures on government expenditures and allocations for cultural activities and scientific research.

6. The CHAIRMAN said that the Committee had meant to ask whether the recent evolution of budgetary policy had had an adverse effect on expenditures for cultural activities and scientific research.

7. Mr. STEEL said that he would reply to the question at a later stage.

8. The CHAIRMAN invited the United Kingdom delegation to respond to paragraphs 20, 21 and 22 of the list of issues, which dealt with the implementation of articles 10 to 12 of the Covenant.

9. Mr. STEEL (United Kingdom) took up paragraph 20, which stated that according to a 1994 publication entitled Law and Order in Private Rented Housing, while government figures showed that 144,000 households might have experienced harassment or illegal eviction, 80% of such cases had not been reported, and that national housing policy was powerless to address the problem, which concerned in particular single-parent private tenants who had very low incomes or belonged to racial minorities, especially the black minority, and that in most places the Housing Act 1988 had directly resulted in abuses by private landlords.

10. The Government was aware that a minority of landlords abused their position. That was why the Eviction Act 1977 made it a criminal offence to harass a tenant in certain ways. The Act had been strengthened by the Housing Act 1988, which made it a criminal offence to harass a tenant in such a way as to cause him to leave his home, even if the intention to commit such an offence could not be established. The Act also established the right to damages for illegally evicted tenants and empowered local authorities to take legal proceedings against landlords for the offences of harassment or illegal eviction.

11. Turning to paragraph 21, he said that the Local Government and Housing Act 1989 had expanded the definition of houses in multiple occupancy to include flats in multiple occupancy. The Act had also introduced a grant for landlords to be paid by local authorities, with a ceiling of £20,000 set at their request, to improve the accommodation which they offered for rent. The Act also empowered local authorities to charge a fee for registering a property and established new standards of fitness for housing. Generally speaking, the implementation of the new provisions had not given rise to major problems.

12. With regard to paragraph 22 concerning the homeless, it was impossible to apply the Homelessness Code of Guidance uniformly throughout the country owing to the discretion enjoyed by local authorities in carrying out the provisions of the Code.

13. Mr. TEXIER asked whether the problem of the homeless was as acute in the United Kingdom as in France, where the large number of homeless people was due mainly to the marginalization of unemployed persons who were no longer entitled to unemployment benefit. If the United Kingdom had a similar problem, he would like to know what the causes were and how the Government was trying to deal with them.

14. He would also like to know whether the courts intervened when tenants who could no longer pay their rent were evicted and, if so, whether the courts took the provisions of article 11 of the Covenant into account in their decisions. He wondered whether evicted tenants were rehoused, in accordance with the Committee's recommendation No. 4.

15. Mr. SIMMA said that, according to information transmitted by the non-governmental organization Shelter, the number of homeless had trebled in the United Kingdom between 1978 and 1992, when, again according to Shelter, the number of homeless families had totalled 150,000. In addition, one home in 13 did not meet the minimum standards of fitness. According to a study made by Bristol University, nine billion pounds would be needed to bring such accommodation up to standard. He would like to know whether the Government envisaged taking action to improve the situation.

16. Mr. STEEL (United Kingdom) said that he did not have the necessary information to reply to the questions put by Mr. Texier and Mr. Simma, but the United Kingdom delegation would give the Committee an answer as quickly as possible.

17. The CHAIRMAN invited the United Kingdom delegation to take up paragraphs 23 to 38 of the list of issues, which concerned Hong Kong.

18. Mr. FUNG (United Kingdom) said that he welcomed the presence of the many Hong Kong non-governmental organizations (NGOs), with which the Government of Hong Kong wished to maintain a constructive dialogue in order to improve the human rights situation in the Territory. Although Hong Kong's human rights record was one of the best in Asia, the Government was nevertheless aware that some provisions of the Covenant were still not being fully applied.

19. In general terms, the protection of human rights was well established in Hong Kong, thanks in particular to the primacy of the rule of law and the independence of the judiciary. Hong Kong applied the international human rights standards, including those contained in the Convention on the Rights of the Child and in 49 of the conventions of the International Labour Organization (ILO). It was also planning to implement in the near future the provisions of the Convention on the Elimination of All Forms of Discrimination Against Women. A bill prohibiting any form of discrimination on the ground of sex was currently under study and attention would shortly be given to a similar bill concerning the disabled. Measures were also being taken to strengthen the means available to the courts and to make legal aid more easily obtainable by people wishing to lodge complaints of violations of the rights accorded to them by the International Bill of Human Rights.

20. In economic matters the Government believed that its main task was to establish infrastructures and an administrative and legal framework which would encourage economic growth and prosperity. It thought, however, that the intervention of the executive in economic affairs should be kept to a minimum. That policy lay at the root of Hong Kong's economic success and the high living standards of its inhabitants. In 1993 Hong Kong ranked second among Asian countries, after Japan, in per capita income, which stood at US$ 19,400. The unemployment rate was only 2.3%. Disadvantaged people had access to a vast network of social services which offered them financial assistance, medical care and help with housing, among other benefits. The Government was also planning to introduce a broadly based pensions scheme.

21. With regard to access to health care, the situation in Hong Kong was comparable to that in developed countries. Life expectancy was 81 years for women and 75 years for men. Ninety- nine percent of school children were vaccinated against the nine main infectious diseases.

22. Where housing was concerned, some three million people, i.e. more than half the population, lived in various types of housing subsidized by public funds. It was estimated that by 1997 more than half of all families would own their own homes.

23. About a fifth of the population was engaged in full-time study. Education was free for children under 15, generally subsidized for children over 15 and free for those who were unable to pay for their schooling. The quality of the teaching in higher education establishments was very good, and merit was the only criterion of admission. Scholarships were awarded to children from poorer families who had the necessary qualities for higher education. Moreover, additional resources were being allocated to improve the quality of education, especially for pupils with learning disabilities.

24. New environmental protection laws were to be enacted in order to prevent any recurrence of past errors. In order to meet the people's increasing interest in the arts, the Government was going to effect a considerable expansion of cultural activities.

25. Hong Kong was not a welfare State, but the Government had a profound concern for the welfare of the population and saw to it that an appropriate share of the wealth produced was used to ensure that no one lived in need. The Government pursued a balanced human rights policy which it believed to be fully in conformity with the provisions of the international human rights covenants.

26. Mr. GRISSA said that he would like to know why the United Kingdom Government stated in its written reply to the question on self-rule in paragraph 2 of the list of issues that it was inappropriate to talk about self-rule in the case of Hong Kong. It also stated that the Basic Law, which would be the constitutional instrument for the Hong Kong Special Administrative Region, provided for an upward curve in democratic participation for the citizens of Hong Kong. He would like to know who would guarantee that upward curve.

27. The Sino-British Joint Declaration stated expressly: "The provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as applied to Hong Kong, shall remain in force." He wondered whether it should be concluded that China would continue to submit reports to the Committee after the transfer of sovereignty.

28. In its written reply to the question contained in paragraph 24 of the list of issues the United Kingdom Government stated that there was a difference of nature between the rights contained in the International Covenant on Economic, Social and Cultural Rights and those contained in the International Covenant on Civil and Political Rights. He would welcome clarification of the meaning of that statement. He himself thought that the two Covenants were of the same nature, since they were both concerned with the protection of human rights.

29. Ms. TAYA said that she would like to know how the implementation of the provisions of the Covenant would be guaranteed unless China itself acceded to it. Bearing in mind the British legal system, she wondered whether the provisions of the Covenant could be incorporated in domestic law.

30. Mr. SIMMA said that the question of law posed by the implementation of the Covenant in Hong Kong after 1 July 1997, when Hong Kong was to become part of a State which had not acceded to the Covenant, was a very interesting one from the theoretical standpoint and deserved to be studied with the closest attention, for the way in which it was answered would have important consequences. In 1984 the United Kingdom Government had concluded an agreement with China under which the Covenant would continue to be applied in Hong Kong after 1 July 1997. There was nothing to indicate that China would accede to the Covenant in the near future; it could even be said that at present China's interest in human rights was not very evident. The implementation of the provisions of the Covenant would thus fall within the scope of a bilateral agreement. If China did not implement the provisions of the Covenant, a bilateral agreement would be broken. It should be made clear what the United Kingdom Government envisaged doing if China did not fulfil its obligations under the Covenant, including the obligation to submit reports on the situation of economic, social and cultural rights in Hong Kong, and what the international community would be able to do in such circumstances.

31. There were two precedents which provided interesting pointers. The first concerned ILO: by a declaration dated 1 September 1989 the Chinese Government had entered into a commitment to ILO to continue to guarantee the participation of the Hong Kong Special Administrative Region in ILO activities and in particular to guarantee observance of ILO labour conventions. The second precedent related to the work of the Human Rights Committee: arguing that the International Covenant on Civil and Political Rights was intended to be applied in the interests of people and not for the benefit of States, the Committee had asked some of the States of the former Yugoslavia to submit reports on the enjoyment of rights in the territory of the former Yugoslavia, and those States were complying with the request. The Committee on Economic, Social and Cultural Rights might possibly put a similar request to China to submit reports on the implementation of the corresponding rights in the Territory of Hong Kong.

32. Mr. STEEL (United Kingdom) said that the United Kingdom had concluded a formal treaty with China under which China agreed to assume the international legal obligations guaranteeing that the provisions of the two Covenants would continue to be respected in Hong Kong. As far as the United Kingdom authorities were concerned, the submission of reports was one of the obligations connected with the implementation of the Covenants. Mr. Simma had cited two legal procedures by means of which China would be able in the future to submit reports on the human rights situation in the Special Administrative Region; there were certainly other procedures as well. The simplest thing would of course be for China to accede to the Covenant, either for the whole country or for Hong Kong alone.

33. While he could give the Committee an assurance that the United Kingdom Government had taken up with the Chinese Government the question of the implementation of the Covenants after 1 July 1997, he could not of course report on the views stated by the two parties during the negotiations, which were confidential. In the circumstances it was difficult to go any further, except by anticipating what China's future attitude would be. At the present stage there was no reason to doubt China's willingness to comply with the treaty which it had signed and which had been deposited with the United Nations. Solutions could always be found to technical problems of procedure.

34. Ms. AHODIKPE said that many residents of Hong Kong feared the advent of 1997; if China's commitment to comply with the provisions of the Covenant and other legal provisions was clear, there would be less reason for fear.

35. Mr. FUNG (United Kingdom) said that in connection with the continued observance of international obligations concerning Hong Kong it must be remembered that Hong Kong was not at present a sovereign State but part of the United Kingdom and that, as such, it was not a signatory of the Sino-British Joint Declaration. Replying to Mr. Grissa's question about the statement that the term self-rule was not appropriate in the case of Hong Kong, he drew attention to the consistent position of the Chinese Government to the effect that Hong Kong was historically and culturally part of China and that the situation should be regulated by negotiations and not by measures for the promotion of independence as in the case of other dependent Territories. That position had been endorsed in the preamble to the treaty between the United Kingdom and China. The future of the Territory of Hong Kong was governed by the Joint Declaration, one of the effects of which was to create the Hong Kong Special Administrative Region from 1 January 1997, and by the Basic Law enacted in 1990 which would enter into force as the constitution of Hong Kong on 1 July 1997. According to the rule "one country, two systems", the Special Administrative Region would enjoy a high degree of autonomy except in foreign affairs and defence.

36. Mr. Grissa had also asked how the Basic Law could guarantee an upward curve in democratic participation for the citizens of Hong Kong. That statement, made in the written replies of the United Kingdom Government, was not a pious wish but stemmed from the provisions of the Basic Law itself, in particular article 68. For example, it was envisaged that the members of the Legislative Council would gradually be elected by universal suffrage.

37. With regard to the other point raised by Mr. Grissa - that an ordinance had been enacted which incorporated the provisions of the International Covenant on Civil and Political Rights but that the International Covenant on Economic, Social and Cultural Rights had not been subject to the same procedure - he said that owing to the nature of the rights contained in the latter Covenant they could not be enacted expressly in domestic legislation; moreover, some of the rights in question were being implemented by States gradually as their resources allowed. The second periodic report and the written replies gave details of the implementation of the rights set out in the Covenant.

38. Mr. GRISSA noted that it was planned that the Basic Law would have the force of a constitution from 1 July 1997 and said that he would like to know how there could be any certainty that China would in fact regard the Basic Law as a constitution.

39. Mr. FUNG (United Kingdom) said that the Basic Law had been adopted in April 1990 by the National People's Congress of China. As had been pointed out, from 1 July 1997 the Basic Law would function as a constitution for the Special Administrative Region. The text of the Basic Law was the result of very long consultations and negotiations; it had in fact gone through three different drafts before being finally adopted by the Chinese Parliament. There was no reason to suppose that the Chinese Government would abrogate it.

40. Mr. SIMMA asked whether the Basic Law provided any possibilities of recourse after 1997 in the event of violation of the rights contained in the Covenant and whether the residents of Hong Kong could assert the provisions of the Covenant before the courts. Bearing in mind the fact that the provisions of the International Covenant on Economic, Social and Cultural Rights had not been incorporated in domestic law, he wished to point out that in common law countries judges could invoke the application of an international treaty even if it had not been incorporated in domestic law; for example, British judges had repeatedly invoked the provisions of the European Convention on Human Rights. He would like to know whether Hong Kong judges could invoke the provisions of the Covenant and whether they had been made aware of the importance of economic, social and cultural rights.

41. Mr. FUNG (United Kingdom) said that article 39 of the Basic Law stated that the provisions of the two Covenants would continue to be applied in the Territory of Hong Kong. It went on to state that common law would remain in force after 1 July 1997. Under common law of course judges had the power to interpret the law. After 1 July 1997 the judges, trained in the principles of common law and equity and the other rules of Anglo-Saxon law, would continue to apply their case law. Article 18 of the Basic Law provided that the laws governing the Special Administrative Region would be the Basic Law, the laws formerly in force and the laws enacted by the Region's legislature. The principle of stare dicisis, i.e. respect for earlier decisions and for precedents, would continue to apply.

42. Replying to the question on the training of judges in human rights, he said that the provisions of the International Covenant on Civil and Political Rights had been incorporated almost verbatim in the Declaration of Rights and that the judges had thus been able to familiarize themselves with those rights in the performance of their duties. Seminars had also been held by the judiciary for the benefit of judges, with the participation of lawyers specializing in human rights from Canada, Australia, New Zealand and the United Kingdom. Some of the provisions of the International Covenant on Economic, Social and Cultural Rights had been incorporated in legislation and, since such legislation was interpreted in legal proceedings, the judges had been able to familiarize themselves with it.

43. Mr. SIMMA said that he understood that the Basic Law did not provide any right of appeal and he would like to have that point confirmed. He also wondered whether in the People's Republic of China the Constitution took precedence over other legislation, in other words whether the Basic Law would take precedence over any legislation enacted by the authorities after Hong Kong became a special administrative region of the People's Republic of China.

44. Mr. GRISSA asked whether the Committee's fears about observance of the rights contained in the Covenant after 1 July 1997 were justified, since the Basic Law, which guaranteed such observance, was going to be applied.

45. Mr. FUNG (United Kingdom) acknowledged that the Basic Law did not provide for any specific means of appeal. However, under common law, which would continue to be applied in Hong Kong after 1997, any violation of the Basic Law could be brought before the courts on the same footing as violations of any other law. Furthermore, article 35 of the Basic Law provided that the residents

of Hong Kong could bring legal proceedings in respect of acts committed by the public authorities.

46. With regard to the primacy of constitutions over other legislation, the United Kingdom Government regarded the Basic Law as a basic constitutional instrument which took precedence over all other legislation. He again drew attention to article 8 of the Basic Law, which stated that the laws in force in Hong Kong would remain in force unless they conflicted with the Basic Law. Moreover, article 11 of the Basic Law provided that, pursuant to article 31 of the Constitution of the People's Republic of China, the economic and social system, the system guaranteeing fundamental rights and the freedom of citizens, and the executive, judicial and legislative systems would be based on the provisions of the Basic Law and that no law which conflicted with those provisions could be enacted in Hong Kong. However, it was true that, while it was very important, legislation could not of itself dispel all the apprehensions about the future of Hong Kong and the situation of human rights in the Territory after 1997.

47. Ms. BONOAN-DANDAN said that she welcomed the adoption of the bill prohibiting discrimination on the ground of sex, but noted that, according to information received, the bill had relegated to a position of secondary importance two other bills, one on equality of opportunity, which prohibited any discrimination in work, housing, education and the provision of goods and services, and the other on human rights and equality of opportunity, which provided effective recourse in the event of discrimination or violation of human rights. She would like to know the Government's position with respect to those two bills.

48. On the question of foreign workers, she noted that in Hong Kong most domestic workers of foreign origin were women from the Philippines. Unlike nationals of other countries such as the United Kingdom, the United States, Australia, Canada and Japan, such employees were not allowed to have their families join them. Moreover, according to a joint declaration by 22 organizations based in Hong Kong, domestic workers and other foreign workers were allowed only two weeks to leave Hong Kong when their work contracts expired. Such a rule could allow employers to infringe the rights of their employees without running any risk, since the employees did not have sufficient time to take legal action. Lastly, the residency conditions for foreign domestic workers were discriminatory, for such workers were required to perform the same work throughout their stay in Hong Kong and had no opportunity of improving their situation.

49. She would also like to have information about the situation of Vietnamese asylum-seekers, who had apparently suffered many violations of their rights, and about the accusations made against the Office of the United Nations High Commissioner for Refugees (UNHCR), which was said to have deliberately denied such persons their economic, social and cultural rights.

50. Mr. FUNG (United Kingdom) said that he wished to make it clear first of all that the bill prohibiting discrimination on the ground of sex was currently under consideration by the Legislative Council, as was the bill on equality of opportunity, which was certainly not considered of secondary importance. The Government hoped that both bills would be adopted. The bill on human rights and equality of opportunity, in contrast, had not in fact been submitted to the

Legislative Council, partly because it dealt with issues already covered by the two other bills and partly because the Government thought that it would have excessive financial implications.

51. There were currently 130,000 foreign domestic workers in Hong Kong, of whom 90% were from the Philippines; the others came from other Asian countries such as Indonesia, Thailand and Sri Lanka. Such persons were authorized to work for a specific employer for a period of two years. At the end of that period they had to return home. They could subsequently return to Hong Kong with a new contract, either with the same employer or with a different one. If their contract ended prematurely, they had two weeks to make arrangements for their departure. The two-week rule had been applied without problems for a number of years. According to the law, employers were required to pay the costs of employees' return journeys to their countries of origin. If an employee thought that he had suffered harm, he could bring the matter before the competent jurisdiction to obtain compensation and, in such cases, he could extend his stay until a decision had been handed down. The restrictions imposed on foreign domestic workers, who were not entitled to have their families join them, applied equally to all other foreign workers. They were due to the problem of overpopulation in Hong Kong. He stressed that most of the foreign domestic workers were willing to work in Hong Kong despite the restrictions, provided that they were housed by their employer.

52. Turning to the question of asylum-seekers, he said that in 1989 Hong Kong had introduced a programme, which the international community had approved, designed to solve the problem of refugees while taking into account the shortage of space in Hong Kong. Under the programmme the asylum-seekers were examined in order to distinguish genuine refugees from people wishing to emigrate for economic reasons. The refugees were directed to countries which were willing to receive them; the others had to return to Vietnam. The examination was conducted by the Immigration Office, whose personnel had received special training to enable them to identify genuine refugees and to understand, as far as possible, their living conditions in Vietnam. Pending examination by the Immigration Office, asylum-seekers were taken in hand by the State and accommodated in camps. Their needs were attended to by the Government, UNHCR and NGOs designated by UNHCR. Asylum-seekers were informed about the action to be taken and about the two options open to them. They could return to Vietnam whenever they wished, either before or after examination by the Immigration Office. The Hong Kong Government had obtained a guarantee from the Vietnamese authorities that any Vietnamese who returned home would not be subject to persecution. To date, almost 43,000 Vietnamese had returned home entirely of their own volition, and no case of persecution had been reported. Since 1979 the Hong Kong Government had granted asylum to almost 200,000 Vietnamese immigrants and had spent 6.6 million Hong Kong dollars on them. Furthermore, UNHCR owed the Government 150 million Hong Kong dollars for caring for asylum-seekers. As to the accusations made against UNHCR, he requested the Chairman to transmit them to the appropriate quarter, for he was not himself competent to reply.

53. The CHAIRMAN pointed out that the specialized agencies had always been invited to participate in the Committee's discussions and that the representative of UNHCR would reply at a later stage to any questions which members of the Committee might wish to put.

54. Mr. SIMMA, reverting to the question of Hong Kong's legislation on discrimination, said that he understood that the Government did not intend to adopt any general law dealing with all the forms of discrimination referred to in article 2, paragraph 2, of the Covenant, and he wondered whether the Hong Kong authorities believed that only discrimination on the ground of sex and discrimination against the disabled were important and that there was no need for legislation concerning the other grounds of discrimination. He also noted that the Government had refused to allow a bill on human rights and discrimination in general, which dealt with the establishment of a human rights commission, to be submitted to the Legislative Council. The Government could thus prevent consideration of a bill by the legislature merely by reason of its budgetary implications. He asked for further information about the relations between the executive and the Legislative Council with regard to the enactment of laws and added that he would like to know why the Government refused to establish a human rights commission which would be able to consider all cases of discrimination as well as communications from individuals.

55. Mr. Alvarez-Vita took the Chair.

56. Ms. JIMENEZ BUTRAGUEÑO said that she was worried about the situation of separated families and would particularly welcome further information about a child recently expelled to China without his family, whose fate had been revealed by an NGO. She asked whether the case was an isolated one.

57. The CHAIRMAN said that he would like the Hong Kong delegation to give more specific information about the difficulties encountered in the implementation of the Covenant.

58. He was very worried about the situation of foreign domestic workers. It did seem that the contracts offered to such workers were not subject to any regulation, in contravention of the Covenant. He asked whether a minimum wage had been set for the work performed by such persons and why Filipino workers did not have the right to bring their families to Hong Kong: such a prohibition conflicted with the provisions of the Covenant concerning protection of the family. Furthermore, since the majority of foreign domestic workers were women from the Philippines, it might well be thought that the situation constituted a massive violation of women's rights.

59. Mr. CEAUSU said that he too was very worried about the situation of foreign domestic workers. He understood that they were induced to accept employment subject to certain restrictions set out in their contract. That seemed to mean that they had to waive enjoyment of certain economic, social and cultural rights in order to obtain employment and that, for example, they had to agree not to start a family, marry with a Hong Kong resident, or exercise the right to education. If that account was correct, it might well amount to a flagrant violation of the Covenant. He therefore pressed for further information about the status of foreign domestic workers.

60. Ms. BONOAN-DANDAN said that most of the Filipino women working in Hong Kong as domestic workers had academic qualifications but they were offered wages three times higher than what they would receive in the Philippines for working at their own profession. Many of them were married and had children but were compelled under the existing conditions to live far away from home for a minimum of two years. It was true that the Philippines had accepted such conditions,

but that provided no justification whatsoever for what was obvious discrimination against Filipino workers in Hong Kong.

61. Furthermore, in the event of disputes over wages between foreign workers and Hong Kong employers, while it was true that foreign workers could remain in the Territory of Hong Kong to try to obtain compensation, it was equally true that they did not have the right to seek other work; it was therefore very difficult for them to remain in Hong Kong when they lacked the resources to prosecute their case.

62. Mr. Alston resumed the Chair.

63. Mr. FUNG (United Kingdom) said that for the Hong Kong authorities the most urgent task in the fight against discrimination was to solve the problems of discrimination on the ground of sex and discrimination against the disabled. That did not mean that the other criteria mentioned in article 2, paragraph 2, of the Covenant were less important in the eyes of the authorities but simply that they gave rise to fewer problems. Moreover, the authorities had carefully considered the question of establishing a human rights commission in Hong Kong and had concluded that such a move was not the most effective way of protecting human rights, especially as there would be no guarantee that an institution created now would survive the transition. The establishment of such a commission would not facilitate the task of the existing human rights institutions.

64. Replying to the question put by Ms. Jimenez Butragueño, he said that Hong Kong did not pursue an immigration policy deliberately designed to separate families. A large proportion of the many immigrants whom Hong Kong received each year came from the People's Republic of China, and more than 90% of them were joining their families. While it was true that there remained very many separated families, that was essentially because the various family members did not receive permission to emigrate from the Chinese authorities at the same time. As soon as he returned to Hong Kong he would transmit to the Committee detailed information about the situation of the Chinese child expelled without his family.

65. Foreign domestic workers were employed under standard contracts which allowed no discrimination. They enjoyed the same rights and the same protection as local workers, and a minimum wage had been set for their type of work. If a domestic worker thought that his rights had been infringed, he could have recourse initially to the conciliation services offered by the Department of Labour and then to a labour tribunal if the conciliation was unsuccessful. All foreign workers were informed about their rights by means of pamphlets, information meetings and a telephone number which they could call 24 hours a day. When foreign domestic workers took legal action because they believed that their rights had been infringed, the Hong Kong authorities provided them with accommodation in a transit centre reserved especially for them. Foreign workers were able to participate in all the cultural and educational activities available in Hong Kong.

66. On the point raised by Mr. Ceausu, he said that there was no question of foreign domestic workers waiving their rights. The rights and obligations of employers and workers were governed by the work contract, which must be consistent with the labour legislation. Lastly, there was no restriction

preventing foreign domestic workers from marrying the person of their choice, whether that person resided in Hong Kong or not.

The meeting rose at 6 p.m.